



September 22, 1999

Mr. Alberto J. Peña
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-2652

Dear Mr. Peña:

You ask us to reconsider Open Records Letter No. 99-1950 (1999). Your request for reconsideration was assigned ID# 128284.

The City of San Antonio (the "city") received a request from an attorney for his client's medical records relating to an EMS incident that occurred on December 7, 1998. In your original request for a ruling, you claimed that the requested records are excepted from disclosure under section 552.103 of the Government Code. In Open Records Letter No. 99-1950, we concluded that you must release the requested records in accordance with section 4.01 of article 4590i of the Texas Civil Statutes. You now contend that section 4.01 does not apply in this instance, and you ask that we reconsider this conclusion. You have resubmitted the documents at issue to this office for review.

We agree that section 4.01 of article 4590i of the Texas Civil Statutes does not apply in this case. However, the city is not entitled to withhold the records at issue from the requestor under section 552.103 of the Government Code. The records at issue are Emergency Medical Services (EMS) records. Chapter 773 of the Health and Safety Code, which deems EMS records confidential, grants to any person who bears a written consent of the patient or a person authorized to act on the patient's behalf a right of access to the patient's EMS records. Health & Safety Code §§ 773.091(a), (b), .092(e)(4), .093. We have consistently held that a specific statute affirmatively requiring release of information prevails over section 552.103. Open Records Decision No. 451 (1986). Thus, upon receipt of written consent that conforms with the requirements of section 773.093 of the Health and Safety Code, the city must release the EMS records to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 128284

Encl. Submitted documents

cc: Mr. Corbin Snow, III
Snow & Laurel, L.L.P.
7330 San Pedro, Suite 630
San Antonio, Texas 78216

(w/o enclosures)